

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

SHAYLA N. GIBSON,

CASE NO. CV 17-4692 SS

Plaintiff,

**MEMORANDUM DECISION AND ORDER**

NANCY A. BERRYHILL, Acting  
Commissioner of Social  
Security,

Defendant.

I.

## INTRODUCTION

21 Shayla N. Gibson ("Plaintiff") brings this action seeking to  
22 overturn the decision of the Acting Commissioner of Social Security  
23 (the "Commissioner" or "Agency") denying her application for  
24 Disability Insurance Benefits. The parties consented, pursuant to  
25 28 U.S.C. § 636(c), to the jurisdiction of the undersigned United  
26 States Magistrate Judge. (Dkt. Nos. 11-13). For the reasons  
27 stated below, the Court AFFIRMS the Commissioner's decision.

II.

## **PROCEDURAL HISTORY**

4 On November 26, 2013, Plaintiff filed an application for  
5 Disability Insurance Benefits ("DIB") pursuant to Title II of the  
6 Social Security Act alleging a disability onset date of January 1,  
7 2011. (AR 130-31). The Commissioner denied Plaintiff's  
8 application. (AR 69-82). Plaintiff requested a hearing before  
9 an Administrative Law Judge ("ALJ"), which took place on May 13,  
10 2015. (AR 89, 36-68). The ALJ issued an adverse decision on March  
11 7, 2016, finding that Plaintiff was not disabled because she was  
12 capable of performing her past relevant work as a case worker,  
13 receptionist, and secretary, and because there are also jobs in  
14 the national economy that she can perform. (AR 10-20). On April  
15 25, 2017, the Appeals Council denied Plaintiff's request for  
16 review. (AR 1-9). This action followed on June 26, 2017.

III.

## **FACTUAL BACKGROUND**

21 Plaintiff was born on July 25, 1977. (AR 130). She was thirty-  
22 eight (38) years old when she appeared before the ALJ on February  
23 3, 2017. (AR 40). Plaintiff is a college graduate. (AR 159).  
24 She is single and lives with her family. (AR 130, 165). Plaintiff  
25 last worked in 2010 as a case manager.<sup>1</sup> (AR 42). She alleges

<sup>1</sup> As discussed below, Plaintiff's date last worked is in dispute.

1 disability due to bilateral carpal tunnel syndrome and nerve damage  
2 in her hands and neck. (AR 158).

3

4 **A. Plaintiff's Statements And Testimony**

5

6 In a February 2014 Function Report, Plaintiff asserted that  
7 her impairments restrict her ability to grab and grasp items. (AR  
8 165). Her hands cramp while writing, she drops things, and she  
9 has pain in her finger tips, neck, and left arm. (AR 165). She  
10 is able to care for her children and her pets. (AR 166). Plaintiff  
11 is able to drive and shop for household items. (AR 168).  
12 Nevertheless, she contends that her impairments limit her ability  
13 to lift, stand, walk, sit, reach, finger, concentrate, and complete  
14 tasks. (AR 170). She cannot lift more than five pounds. (AR  
15 170). In October 2014, Plaintiff denied the use of any medications,  
16 including over-the-counter medicines. (AR 212).

17

18 At her February 2016 hearing, Plaintiff expressed confusion  
19 about when she stopped working, acknowledging that she may have  
20 worked in 2011 and 2012, despite claiming disability beginning in  
21 January 2011. (AR 38, 40-42). She testified being unable to work  
22 due to carpal tunnel syndrome. (AR 46). Despite having surgery  
23 on both wrists, Plaintiff asserted that she has numbness and  
24 tingling in her hands and wrists that has spread to her elbows and  
25 up to her neck. (AR 46, 51). She cannot sit or stand for long  
26 before developing numbness and tingling. (AR 52). Physical  
27 therapy and home exercises have not relieved her symptoms. (AR  
28 47). Despite continuing pain in her neck, right side, and both

1 hands and elbows, Plaintiff denied seeking any treatment during  
2 2015, stating that she "didn't know [she] could." (AR 49-50, 58).  
3

4 Plaintiff testified that she is able to care for her children,  
5 ages eight, nine, ten and twelve, including driving them to school,  
6 but relies on them to help prepare their meals, wash their clothes,  
7 and shop for food. (AR 53-55). She acknowledged being able to  
8 personally handwrite the eight-page Function Report, stating that  
9 it took her a while because her hand grew tired. (AR 55-56). She  
10 is able to lift a case of water. (AR 56).

11

12 **B. Treatment History**

13

14 On July 1, 2011, Plaintiff injured her hands, wrists, and  
15 shoulders while working as a case manager for Maximus Cal Works.  
16 (AR 416-17). In November 2011, Plaintiff reported that physical  
17 therapy sessions gave only minimal improvement, but she continued  
18 to work. (AR 417-18). She was still experiencing pain to her  
19 bilateral hands, wrists, and shoulders that improves with rest.  
20 (AR 417). Plaintiff's doctor diagnosed bilateral wrist  
21 tenosynovitis and bilateral shoulder strain, with a need to rule  
22 out bilateral carpal tunnel syndrome. (AR 425).

23

24 On November 14, 2011, electrodiagnostic testing indicated a  
25 right mild compression of the median nerve at the carpal tunnel.  
26 (AR 500). In January 2012, nerve conduction studies indicated left  
27 carpal tunnel syndrome and early right carpal tunnel syndrome, as  
28 well as possible right C6 radiculopathy. (AR 636, 642). In July

1 and October 2013, Plaintiff underwent bilateral carpal tunnel  
2 releases. (AR 745-46, 783, 786).

3

4 Plaintiff was evaluated on several occasions between November  
5 2012 and December 2014 by Andre Chaves, M.D. a workers'  
6 compensation Qualified Medical Examiner. (AR 790-807). In March  
7 2014, he diagnosed status post bilateral carpal tunnel releases  
8 and questionable bilateral cubital tunnel syndrome. (AR 792). On  
9 examination, he found full, unimpeded range of motion in flexion  
10 and extension of all digits, wrists and elbows without limitation.  
11 (AR 791). Dr. Chaves opined that Plaintiff is able to perform  
12 keyboard activities so long as they do not exceed thirty minutes  
13 per hour. (AR 792). He precluded Plaintiff from repetitive wrist  
14 motion, repetitive forceful gripping, and grasping with both hands.  
15 (AR 792). In his December 2014 report, Dr. Chaves confirmed  
16 bilateral carpal tunnel syndrome based on clinical testing. (AR  
17 806).

18

19 On March 31, 2014, John Sedgh, M.D., performed an Internal  
20 Medicine Consultation examination, at the request of the Agency.  
21 (AR 621-26). He noted a positive "Tinel's sign" in both hands,  
22 but his neurological examination was unremarkable, and Plaintiff  
23 exhibited a normal range of motion at her wrists. (AR 624-25).  
24 Dr. Sedgh opined that Plaintiff can lift or carry twenty pounds  
25 occasionally and ten pounds frequently; stand and walk or sit for  
26 six hours during an eight-hour workday; occasionally kneel, crouch,  
27 and stoop; and occasionally use gross and fine manipulation with  
28 either hand. (AR 625-26).

**C. State Agency Consultant**

On April 17, 2014, Brett Alberty, M.D., a state agency consultant, reviewed all the available evidence in the medical file. (AR 70-82). Dr. Alberty found that Plaintiff was limited to occasionally lifting twenty pounds and frequently ten pounds; standing and walking or sitting six hours in an eight-hour workday; with no manipulative or kneeling limitations; and occasionally stooping, crouching, and crawling. (AR 78-79).

IV.

## THE FIVE-STEP SEQUENTIAL EVALUATION PROCESS

To qualify for disability benefits, a claimant must demonstrate a medically determinable physical or mental impairment that prevents the claimant from engaging in substantial gainful activity and that is expected to result in death or to last for a continuous period of at least twelve months. Reddick v. Chater, 157 F.3d 715, 721 (9th Cir. 1998) (citing 42 U.S.C. § 423(d)(1)(A)). The impairment must render the claimant incapable of performing work previously performed or any other substantial gainful employment that exists in the national economy. Tackett v. Apfel, 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 42 U.S.C. § 423(d)(2)(A)).

To decide if a claimant is entitled to benefits, an ALJ conducts a five-step inquiry. 20 C.F.R. §§ 404.1520, 416.920. The steps are:

- (1) Is the claimant presently engaged in substantial gainful activity? If so, the claimant is found not disabled. If not, proceed to step two.
- (2) Is the claimant's impairment severe? If not, the claimant is found not disabled. If so, proceed to step three.
- (3) Does the claimant's impairment meet or equal one of the specific impairments described in 20 C.F.R. Part 404, Subpart P, Appendix 1? If so, the claimant is found disabled. If not, proceed to step four.
- (4) Is the claimant capable of performing his past work? If so, the claimant is found not disabled. If not, proceed to step five.
- (5) Is the claimant able to do any other work? If not, the claimant is found disabled. If so, the claimant is found not disabled.

18 Tackett, 180 F.3d at 1098-99; see also Bustamante v. Massanari,  
19 262 F.3d 949, 953-54 (9th Cir. 2001); 20 C.F.R. §§ 404.1520(b) -  
20 (g) (1), 416.920 (b)-(g) (1).

22 The claimant has the burden of proof at steps one through four  
23 and the Commissioner has the burden of proof at step five.  
24 Bustamante, 262 F.3d at 953-54. Additionally, the ALJ has an  
25 affirmative duty to assist the claimant in developing the record  
26 at every step of the inquiry. Id. at 954. If, at step four, the  
27 claimant meets his or her burden of establishing an inability to  
28 perform past work, the Commissioner must show that the claimant

1 can perform some other work that exists in "significant numbers"  
2 in the national economy, taking into account the claimant's  
3 residual functional capacity ("RFC"), age, education, and work  
4 experience. Tackett, 180 F.3d at 1098, 1100; Reddick, 157 F.3d at  
5 721; 20 C.F.R. §§ 404.1520(g)(1), 416.920(g)(1). The Commissioner  
6 may do so by the testimony of a VE or by reference to the Medical-  
7 Vocational Guidelines appearing in 20 C.F.R. Part 404, Subpart P,  
8 Appendix 2 (commonly known as "the grids"). Osenbrock v. Apfel,  
9 240 F.3d 1157, 1162 (9th Cir. 2001). When a claimant has both  
10 exertional (strength-related) and non-exertional limitations, the  
11 Grids are inapplicable and the ALJ must take the testimony of a  
12 vocational expert ("VE"). Moore v. Apfel, 216 F.3d 864, 869 (9th  
13 Cir. 2000) (citing Burkhart v. Bowen, 856 F.2d 1335, 1340 (9th Cir.  
14 1988)).

15

16 **v.**

17

#### **THE ALJ'S DECISION**

18

19 The ALJ employed the five-step sequential evaluation process  
20 and concluded that Plaintiff was not disabled within the meaning  
21 of the Social Security Act. (AR 20). At step one, the ALJ declined  
22 to make a finding whether Plaintiff engaged in substantial gainful  
23 activity since January 1, 2011, the alleged onset date.<sup>2</sup> (AR 12).  
24 At step two, the ALJ found that Plaintiff's history of bilateral

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26 <sup>2</sup> The record contains disputed evidence whether Plaintiff worked  
27 in 2011 or 2012. (AR 12). However, given the denial at both steps  
28 four and five, the ALJ "decline[d] to render a finding of  
substantial gainful activity at Step 1." (AR 12).

1 carpal tunnel syndrome post bilateral carpal tunnel release in 2013  
2 and bilateral cubital tunnel syndrome are severe impairments. (AR  
3 12-14). At step three, the ALJ determined that Plaintiff does not  
4 have an impairment or combination of impairments that meet or  
5 medically equal the severity of any of the listings enumerated in  
6 the regulations. (AR 14).

7

8 The ALJ then assessed Plaintiff's RFC and concluded that she  
9 can perform light work,<sup>3</sup> with the following nonexertional  
10 limitations: "[Plaintiff] can perform frequent handling, grasping,  
11 gripping and fingering with the bilateral upper extremities; she  
12 is unable to engage in keyboard use for more than 30 minutes in an  
13 hour; and she is limited to occasional overhead reaching with the  
14 bilateral upper extremities." (AR 14). At step four, the ALJ  
15 found that Plaintiff is capable of performing past relevant work  
16 as a case worker, receptionist, and secretary.<sup>4</sup> (AR 18-19).

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18 <sup>3</sup> "Light work involves lifting no more than 20 pounds at a time  
19 with frequent lifting or carrying of objects weighing up to 10  
20 pounds. Even though the weight lifted may be very little, a job  
21 is in this category when it requires a good deal of walking or  
22 standing, or when it involves sitting most of the time with some  
23 pushing and pulling of arm or leg controls. To be considered  
24 capable of performing a full or wide range of light work, you must  
have the ability to do substantially all of these activities. If  
someone can do light work, we determine that he or she can also do  
sedentary work, unless there are additional limiting factors such  
as loss of fine dexterity or inability to sit for long periods of  
time." 20 C.F.R. § 404.1567(b).

25

26 <sup>4</sup> The VE testified that Plaintiff was able to perform her past  
27 relevant work both as generally performed and as actually performed  
28 by Plaintiff. (AR 61). The ALJ, however, found that as a case  
worker, Plaintiff actually performed manipulative activities seven  
hours in an average workday, which exceeds the RFC. (AR 19).  
Therefore, the ALJ determined that Plaintiff is capable of  
performing her past relevant work as a case worker, receptionist,

1 Alternatively, based on Plaintiff's RFC, age, education, work  
2 experience and the VE's testimony, the ALJ determined at step five  
3 that there are jobs that exist in significant numbers in the  
4 national economy that Plaintiff can perform, including sorter,  
5 inspector, and electronics worker. (AR 19-20). Accordingly, the  
6 ALJ found that Plaintiff was not under a disability, as defined by  
7 the Social Security Act, from January 1, 2011, through the date of  
8 the decision. (AR 20).

9

10 **VI.**

11 **STANDARD OF REVIEW**

12

13 Under 42 U.S.C. § 405(g), a district court may review the  
14 Commissioner's decision to deny benefits. The court may set aside  
15 the Commissioner's decision when the ALJ's findings are based on  
16 legal error or are not supported by substantial evidence in the  
17 record as a whole. Garrison v. Colvin, 759 F.3d 995 (9th Cir.  
18 2014) (citing Stout v. Comm'r, Soc. Sec. Admin., 454 F.3d 1050,  
19 1052 (9th Cir. 2006)); Auckland v. Massanari, 257 F.3d 1033, 1035  
20 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1097); Smolen v.  
21 Chater, 80 F.3d 1273, 1279 (9th Cir. 1996) (citing Fair v. Bowen,  
22 885 F.2d 597, 601 (9th Cir. 1989)).

23

24 "Substantial evidence is more than a scintilla, but less than  
25 a preponderance." Reddick, 157 F.3d at 720 (citing Jamerson v.

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27 and secretary as generally performed, and the secretary and  
28 receptionist work as actually performed. (AR 19).

Chater, 112 F.3d 1064, 1066 (9th Cir. 1997)). It is "relevant evidence which a reasonable person might accept as adequate to support a conclusion." Id. (citing Jamerson, 112 F.3d at 1066; Smolen, 80 F.3d at 1279). To determine whether substantial evidence supports a finding, the court must "'consider the record as a whole, weighing both evidence that supports and evidence that detracts from the [Commissioner's] conclusion.'" Auckland, 257 F.3d at 1035 (citing Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir. 1993)). If the evidence can reasonably support either affirming or reversing that conclusion, the court may not substitute its judgment for that of the Commissioner. Reddick, 157 F.3d at 720-21 (citing Flaten v. Sec'y, 44 F.3d 1453, 1457 (9th Cir. 1995)).

VII

## DISCUSSION

17 Plaintiff asserted that she is unable to work due to  
18 debilitating pain, numbness, and tingling in her bilateral hands  
19 and wrists, which sometimes radiates from her elbows to her neck.  
20 (AR 46, 51, 52, 165, 170). Plaintiff testified that her symptoms  
21 cause difficulty gripping, reaching, and prolonged writing. (AR  
22 165, 170). She limits her daily activities, relying heavily on  
23 her four minor children for help with household chores. (AR 53-  
24 55).

26 When assessing a claimant's credibility regarding subjective  
27 pain or intensity of symptoms, the ALJ must engage in a two-step  
28 analysis. *Trevizo v. Berryhill*, 874 F.3d 664, 678 (9th Cir. 2017).

1 First, the ALJ must determine if there is medical evidence of an  
2 impairment that could reasonably produce the symptoms alleged.  
3 Garrison, 759 F.3d at 1014. "In this analysis, the claimant is  
4 not required to show that her impairment could reasonably be  
5 expected to cause the severity of the symptom she has alleged; she  
6 need only show that it could reasonably have caused some degree of  
7 the symptom." Id. (emphasis in original) (citation omitted). "Nor  
8 must a claimant produce objective medical evidence of the pain or  
9 fatigue itself, or the severity thereof." Id. (citation omitted).

10

11 If the claimant satisfies this first step, and there is no  
12 evidence of malingering, the ALJ must provide specific, clear and  
13 convincing reasons for rejecting the claimant's testimony about  
14 the symptom severity. Trevizo, 874 F.3d at 678 (citation omitted);  
15 see also Smolen, 80 F.3d at 1284 ("[T]he ALJ may reject the  
16 claimant's testimony regarding the severity of her symptoms only  
17 if he makes specific findings stating clear and convincing reasons  
18 for doing so."); Robbins v. Soc. Sec. Admin., 466 F.3d 880, 883  
19 (9th Cir. 2006) ("[U]nless an ALJ makes a finding of malingering  
20 based on affirmative evidence thereof, he or she may only find an  
21 applicant not credible by making specific findings as to  
22 credibility and stating clear and convincing reasons for each.").  
23 "This is not an easy requirement to meet: The clear and convincing  
24 standard is the most demanding required in Social Security cases."  
25 Garrison, 759 F.3d at 1015 (citation omitted).

26

27 In discrediting the claimant's subjective symptom testimony,  
28 the ALJ may consider the following:

1 (1) ordinary techniques of credibility evaluation, such  
2 as the claimant's reputation for lying, prior  
3 inconsistent statements concerning the symptoms, and  
4 other testimony by the claimant that appears less than  
5 candid; (2) unexplained or inadequately explained  
6 failure to seek treatment or to follow a prescribed  
7 course of treatment; and (3) the claimant's daily  
8 activities.

10 Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014) (citation  
11 omitted). Inconsistencies between a claimant's testimony and  
12 conduct, or internal contradictions in the claimant's testimony,  
13 also may be relevant. Burrell v. Colvin, 775 F.3d 1133, 1137 (9th  
14 Cir. 2014); Light v. Soc. Sec. Admin., 119 F.3d 789, 792 (9th Cir.  
15 1997). In addition, the ALJ may consider the observations of  
16 treating and examining physicians regarding, among other matters,  
17 the functional restrictions caused by the claimant's symptoms.  
18 Smolen, 80 F.3d at 1284; accord Burrell, 775 F.3d at 1137. However,  
19 it is improper for an ALJ to reject subjective testimony based  
20 "solely" on its inconsistencies with the objective medical evidence  
21 presented. Bray v. Comm'r of Soc. Sec. Admin., 554 F.3d 1219, 1227  
22 (9th Cir. 2009) (citation omitted).

24       Further, the ALJ must make a credibility determination with  
25 findings that are "sufficiently specific to permit the court to  
26 conclude that the ALJ did not arbitrarily discredit claimant's  
27 testimony." Tommasetti v. Astrue, 533 F.3d 1035, 1039 (9th Cir.  
28 2008) (citation omitted); see Brown-Hunter v. Colvin, 806 F.3d 487,

1 493 (9th Cir. 2015) ("A finding that a claimant's testimony is not  
2 credible must be sufficiently specific to allow a reviewing court  
3 to conclude the adjudicator rejected the claimant's testimony on  
4 permissible grounds and did not arbitrarily discredit a claimant's  
5 testimony regarding pain.") (citation omitted). Although an ALJ's  
6 interpretation of a claimant's testimony may not be the only  
7 reasonable one, if it is supported by substantial evidence, "it is  
8 not [the court's] role to second-guess it." Rollins v. Massanari,  
9 261 F.3d 853, 857 (9th Cir. 2001).

10

11 The ALJ concluded that "the overall record fails to support  
12 the severity of symptoms and limitations alleged." (AR 15). He  
13 provided several specific, clear, and convincing reasons to find  
14 Plaintiff's complaints of disabling pain, numbness, and tingling  
15 in her bilateral hands and wrists not entirely credible. (AR 14-  
16 18). These reasons are sufficient to support the Commissioner's  
17 decision.

18

19 The ALJ noted that Plaintiff's subjective symptoms were  
20 inconsistent with her conservative course of treatment. (AR 15).  
21 "[E]vidence of conservative treatment is sufficient to discount a  
22 claimant's testimony regarding severity of an impairment." Parra  
23 v. Astrue, 481 F.3d 742, 751 (9th Cir. 2007)) (citation omitted);  
24 see Meanel v. Apfel, 172 F.3d 1111, 1114 (9th Cir. 1999), as amended  
25 (June 22, 1999) ("Meanel's claim that she experienced pain  
26 approaching the highest level imaginable was inconsistent with the  
27 'minimal, conservative treatment' that she received."). Although  
28 alleging debilitating symptoms, Plaintiff admitted that she had

1 not received any medical treatment since July 2015, after settling  
2 her workers' compensation claim. (AR 47). Further, as early as  
3 October 2014, she reported using no medications, even over-the-  
4 counter medicines. (AR 212). "Impairments that can be controlled  
5 effectively with medication are not disabling for the purpose of  
6 determining eligibility for SSI benefits." Warre v. Comm'r of Soc.  
7 Sec. Admin., 439 F.3d 1001, 1006 (9th Cir. 2006). Instead,  
8 Plaintiff used only home remedies, including exercises and heat.  
9 (AR 49-50). The lack of treatment records during the relevant  
10 period suggests that Plaintiff's symptoms were not as severe as  
11 she alleged. See Tommasetti, 553 F.3d at 1039-40 (ALJ may properly  
12 infer that claimant's pain "was not as all-disabling as he reported  
13 in light of the fact that he did not seek an aggressive treatment  
14 program"). Plaintiff testified that "she didn't know [she] could"  
15 seek additional treatment. (AR 58). The ALJ concluded however,  
16 that "[Plaintiff's] explanation makes little sense given the  
17 severity of symptoms alleged." (AR 15). The ALJ properly could  
18 find, after considering Plaintiff's sparse and conservative  
19 treatment history, that Plaintiff's testimony and statements  
20 regarding her disabling pain were not entirely credible.

21  
22 The ALJ also found that Plaintiff's allegations were  
23 internally inconsistent. (AR 15). "[T]he ALJ may consider  
24 inconsistencies either in the claimant's testimony or between the  
25 testimony and the claimant's conduct." Molina v. Astrue, 674 F.3d  
26 1104, 1112 (9th Cir. 2012); see Burch v. Barnhart, 400 F.3d 676,  
27 680 (9th Cir. 2005) ("ALJ may engage in ordinary techniques of  
28 credibility evaluation, such as . . . inconsistencies in

1 claimant's testimony"); accord 20 C.F.R. §§ 404.1529(c)(4),  
2 416.929(c)(4). While Plaintiff claimed markedly limited bilateral  
3 hand and wrist use, she acknowledged at the hearing that she wrote  
4 the detailed, lengthy handwritten statements reflected in her  
5 Function Report and is able to lift a case of water. (Compare AR  
6 165, 170, with id. 55-56; see id. 15). Further, Plaintiff reported  
7 to her physician being able to take care of her four small children  
8 alone and being able to "work out", meaning exercise at a gym. (AR  
9 246). However, at her hearing, Plaintiff testified that she relies  
10 on her four minor children for significant help with household  
11 chores. (AR 53-55).

12

13 Plaintiff contends that the ALJ ignored that while she is  
14 "able to perform activities of daily living she is only able to do  
15 so for short periods of time and with difficulty." (Dkt. No. 19  
16 at 8). "ALJs must be especially cautious in concluding that daily  
17 activities are inconsistent with testimony about pain, because  
18 impairments that would unquestionably preclude work and all the  
19 pressures of a workplace environment will often be consistent with  
20 doing more than merely resting in bed all day." Garrison, 759 F.3d  
21 at 1016. Nevertheless, an ALJ properly may consider the claimant's  
22 daily activities in weighing credibility. Tommasetti, 533 F.3d at  
23 1039. If a claimant's level of activity is inconsistent with the  
24 claimant's asserted limitations, it has a bearing on credibility.  
25 Garrison, 759 F.3d at 1016. Here, the ALJ determined that despite  
26 Plaintiff's alleged disabling difficulties with gripping,  
27 reaching, and prolonged writing, she acknowledged engaging in daily  
28 activities, including caring for her four minor children, lifting

1 a case of water, and exercising at a gym that were inconsistent  
2 with her alleged disabilities.

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4 The ALJ also noted significant discrepancies among Plaintiff's  
5 statements regarding the temporal scope of her alleged disability.  
6 (AR 15). While Plaintiff alleged a disability onset date of January  
7 1, 2011, she acknowledged at the hearing that she likely worked  
8 until December 2011. (Compare AR 130-31, with id. 38, 40-42). In  
9 March 2011, she reported to her primary care physician being  
10 engaged in "stressful work." (AR 246). In July 2011, Plaintiff  
11 filed a workers' compensation claim for a work-related injury to  
12 her hands, wrists, and shoulders while working as a case manager  
13 for Maximus Cal Works. (AR 416-17); see Bray, 554 F.3d at 1227  
14 (upholding ALJ's credibility finding because claimant "recently  
15 worked as a personal caregiver for two years, and has sought out  
16 other employment since then"). Moreover, earnings records indicate  
17 2011 earnings of \$36,619.60, earnings which would be inconsistent  
18 with Plaintiff's claim of a disabling injury in 2011. (AR 153).  
19 "Even if the work [the claimant has] done was not substantial  
20 gainful activity, it may show that [the claimant is] able to do  
21 more work than [she] actually did." 20 C.F.R. § 404.1571.

22

23 Plaintiff contends that the ALJ failed to "consider [her]  
24 credible testimony." (Dkt. No. 19 at 9). To the contrary, the  
25 ALJ "gave some credence to [Plaintiff's] testimony of pain  
26 extending from her elbows to her neck." (AR 18). The ALJ limited  
27 Plaintiff to only "frequent handling, grasping, gripping and  
28 fingerling with the bilateral upper extremities; she is unable to

1 engage in keyboard use for more than 30 minutes in an hour; and  
2 she is limited to occasional overhead reaching with the bilateral  
3 upper extremities." (AR 14). The RFC is consistent with the  
4 clinical findings of Drs. Chaves, Sedgh, and Alberty (AR 70-82,  
5 621-26, 790-807), which Plaintiff does not contest. See Stubbs-  
6 Danielson v. Astrue, 539 F.3d 1169, 1175 (9th Cir. 2008) (finding  
7 that the medical evidence, i.e., physicians' opinions that the  
8 claimant was able to perform a limited range of work, supported  
9 the ALJ's credibility determination).

10

11 In sum, the ALJ offered clear and convincing reasons,  
12 supported by substantial evidence in the record, for his adverse  
13 credibility findings. Accordingly, because substantial evidence  
14 supports the ALJ's assessment of Plaintiff's credibility, no remand  
15 is required.

16

17 **VIII.**

18

**CONCLUSION**

19

20 Consistent with the foregoing, IT IS ORDERED that Judgment be  
21 entered AFFIRMING the decision of the Commissioner. The Clerk of  
22 the Court shall serve copies of this Order and the Judgment on  
23 counsel for both parties.

24

25 DATED: March 14, 2018

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/S/

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SUZANNE H. SEGAL  
28 UNITED STATES MAGISTRATE JUDGE

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3 **THIS DECISION IS NOT INTENDED FOR PUBLICATION IN WESTLAW,  
LEXIS/NEXIS OR ANY OTHER LEGAL DATABASE.**

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